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Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Note by the Secretariat

In the present report, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context provides States and other actors with concrete guidance on implementing effective rights-based housing strategies. The report explains the difference between a housing strategy and housing policy. It outlines the value of a human rights-based approach to housing strategies and describes the key principles upon which effective rights-based housing strategies must be based. While there is no "one size fits all" housing strategy, the Special Rapporteur identifies the most important requirements of each principle that should be shaped to fit specific national and local contexts. These draw both on human rights norms — as articulated by United Nations treaty bodies, courts and human rights institutions — and on the practical experiences of the Special Rapporteur, various levels of government, civil society, experts and other actors. The report also provides examples of how these key principles have been implemented in practice, in diverse national or local contexts. The report concludes with a checklist to facilitate the design, monitoring, financing and implementation of human rights-based housing strategies.

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Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

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I. Introduction

1. We are at a critical moment. Globally, housing conditions are fraught. Homelessness is on the rise, including in affluent countries; forced evictions continue unabated; in the absence of affordable housing options, increasing numbers of individuals and families resort to living in informal settlements without secure tenure or basic services; climate change-related disasters and responses are displacing poor communities; resource extraction is forcing indigenous peoples from their culturally significant or historic lands; and housing in many cities is simply unaffordable even for the middle class. What is perhaps most worrying of all is that these assaults on dignity and life are being accepted as fixed features of a new global economic order.

2. States have recognized these conditions as unsustainable and tantamount to violations of multiple human rights, and have responded appropriately. Through the 2030 Agenda for Sustainable Development they have, en masse, committed to ensuring access for all to adequate, safe and affordable housing and basic services by 2030. Furthermore, through the New Urban Agenda, States have committed to housing policies that support the progressive realization of the right to adequate housing for all; that address all forms of discrimination and violence and prevent arbitrary forced evictions; and that focus on the needs of the homeless, persons in vulnerable situations, low-income groups and persons with disabilities, while enabling the participation and engagement of communities and relevant stakeholders.[1] In the New Urban Agenda, States have united around an inclusive vision of human settlements, affirmed the need to recognize the social function of land and housing and committed themselves to promoting diverse tenure types, a wide range of housing production options and people-centred approaches.

3. This begs the question: how will States translate these lofty commitments into something practical that can transform housing systems so that they ensure access for all to safe, affordable and adequate housing? The answer lies in the statement by the Secretary-General that these commitments are "unequivocally anchored in human rights".[2]

4. If the historic commitments made through the Sustainable Development Goals and the New Urban Agenda are to be taken seriously, each State must design and implement a human rights-based housing strategy. The Committee on Economic, Social and Cultural Rights has made it clear that this is a central obligation with respect to the right to adequate housing,[3] because it is through the development and implementation of human rights-based strategies that the right to housing can be achieved.

II. What is a housing strategy?

5. In the present report, the term "housing strategy" (or "action plan") is distinguished from "housing policies".

6. Generally, a housing policy is composed of a number of programmes that address current housing issues, including homelessness, social housing supply or access to housing in the private market. Housing programmes are often operated by a single authority, a statutory agency or different levels of government.

7. Housing strategies operate at a higher level than housing policy and programmes and are based on a vision of structural change that is required over time. A strategy coordinates a wide range of laws, programmes, policies and decisions to address housing needs that, when taken together, create a housing system. The aim of a housing strategy is not only to provide housing, but also to address gaps and inequalities in existing systems. It provides opportunities to review and change policies and programmes to ensure their

[1] See General Assembly resolution 71/256, annex, para. 31.

[2] See A/HRC/34/25, para. 4.

[3] See Committee on Economic, Social and Cultural Rights general comment No. 4 (1991) on the right to adequate housing, para. 12.

efficacy and challenges the stigmatization, marginalization and discrimination that lies behind failures of housing systems. A housing strategy must engage a multiplicity of allocated responsibilities and jurisdictions of various levels of government and departments.

8. To meet the commitments of the 2030 Agenda, a housing strategy must ensure that no one is left behind. In other words, it must aim to change societies in which significant numbers of people are deprived of the right to adequate housing, into societies in which everyone has access to adequate housing and in which housing is a means to ensure dignity, security and inclusion in sustainable communities.

III. The value of a human rights-based housing strategy

9. Governments and other actors frequently ask about the value of using a human rights framework in the area of housing policy. The Special Rapporteur has identified the following factors that make a human rights framework critical to the effectiveness of housing strategies.

Human rights problems must be identified and addressed as such

10. The lived experience of homelessness and inadequate housing challenges the very core of what it means to be human, assaulting dignity and threatening life itself. It is these experiences that make homelessness and inadequate housing violations of human rights and not merely programme failures.

Human rights change the way Governments interact with people

11. Those who are homeless or living in inadequate housing are traditionally regarded as recipients, beneficiaries or "objects" of government or charitable programmes. When recognized as rights holders, however, they are active subjects, empowered to engage and be involved in decisions affecting their lives and the enjoyment of their rights. This means they can assist in ensuring strategies are responsive to their lived experiences and are thus more effective.

Human rights help to identify gaps and structural weaknesses in housing systems and programmes

12. Those who are homeless or living in inadequate housing are uniquely situated to identify shortcomings or problems in housing policies and programmes. By recognizing the expertise of rights holders, a human rights framework acts as an ongoing corrective mechanism through which to reassess the components of housing strategies with a view to ensuring that no one is left behind and that progress is continuously achieved.

Human rights clarify decision-making and accountability

13. International human rights law is very clear regarding who is accountable to whom: all levels of government are accountable to people, particularly marginalized and vulnerable groups. Human rights make it clear that, while ensuring access to adequate housing for all involves many actors, it is in fact a legal obligation of States to be both a key actor and a regulator of private actors.

Human rights have primacy over other laws and provide a framework for governance and all decision-making

14. Human Rights apply to a broad range of policies and programmes, bringing coherence and coordination to multiple areas of law and policy through a common purpose and shared set of values. They are responsive to context and specific circumstances while at the same time incorporating universal norms.

Human rights are transformational

15. Human rights claims identify systems, structures and barriers that obstruct the realization of the right to housing and create change by ensuring effective remedies. The

right to housing defines obligations of States both in the present and over time; it commands a vision and a process through which the right to housing is realized. Human rights are necessary to achieve the change that is necessary for goals such as those in the 2030 Agenda to be achieved.

IV. Key principles of a rights-based housing strategy

A. Principle 1: based in law and legal standards

16. The right to housing should be recognized within housing strategies as a legal right, subject to effective remedies. Rights-based housing strategies should be based in legislation that recognizes the right to adequate housing in all of its dimensions. In addition to relying on constitutional or legislative recognition of the right to housing, strategies should reference and adhere to the right to housing as it is guaranteed in international human rights law.

17. Strategies must map a process through which the right to housing will be fulfilled within a reasonable time frame. Provisions are required to ensure not only entitlements in the present (immediate obligations) but also action-oriented obligations over time (progressive realization obligations).

18. Strategies must eliminate homelessness. A State is seen to be in violation of international human rights law if any significant portion of the population is deprived of access to basic shelter or housing. Addressing homelessness is therefore an immediate obligation. A State must make every effort to use all available resources to satisfy the obligation to eliminate homelessness as a priority.[4]

19. Forced evictions constitute a gross violation of human rights. Preventing and halting them must be considered an immediate and prioritized obligation. Only in the most exceptional circumstances and after all alternatives have been explored can forced evictions be carried out. In these circumstances, relevant principles of international law must be strictly followed, including by ensuring that adequate alternative housing is chosen freely by affected communities. The Basic principles and guidelines on development-based evictions and displacement clarify these obligations.[5]

20. The obligation to progressively realize the right to housing is found in article 2 (1) of the International Covenant on Economic, Social and Cultural Rights. The Committee on Economic, Social and Cultural Rights has stated in paragraph 14 of its general comment No. 4 (1991) on the right to adequate housing that, for a State to meet this obligation, it must demonstrate that, in aggregate, the measures being taken are sufficient to realize the right for every individual in the shortest possible time in accordance with the maximum of available resources. In rights-based housing strategies, States are obliged to ensure that measures taken to implement the right to housing are deliberate, concrete and targeted towards the fulfilment of the right; that policy options are consistent with the right; and that the maximum available resources have been allocated to those ends. Housing strategies should establish which obligations are achievable in the present and which can only be implemented within a reasonable period of time. Differences in capacity between States means that a future obligation in some might be an immediate obligation in others.

21. Strategies must outline the obligations concerning the right to housing. These include the obligations of States to respect (not to encroach), protect (prevent interference by third parties) and fulfil (promote and facilitate access to and provide housing or assistance where needed). Because the obligation to fulfil is assessed relative to available resources and other factors, it is the most difficult to define in universal terms. However, it

[4] See Committee on Economic, Social and Cultural Rights general comment No. 3 (1990) on the nature of States parties' obligations, para. 10.

[5] See A/HRC/4/18, annex I.

is central to housing strategies, since they map out the means through which the right to housing will be fulfilled.[6]

22. Rights-based housing strategies should draw on the right to housing not only as a set of legal standards, but also as a transformative vision and a call to action. This vision motivates local and national governments, social movements and communities around the world to act. Strategies must be "living documents" that evolve and respond as new challenges arise, and new voices are heard.

In practice

23. Different legal traditions and policy contexts allow for a range of articulations of the right to housing. Many national constitutions now recognize it explicitly; others affirm governments' responsibility to adopt policies to promote or ensure access to housing. Elsewhere, courts have adopted inclusive interpretations of other constitutional rights, such as the right to life, to guarantee the right to housing. Some States rely primarily on legislation to protect the right to housing.

24. Strategies may rely on courts to play an important role in clarifying obligations emanating from the right to housing. In India, after reviewing evidence of the effect of cold weather on the health of homeless persons, the Supreme Court found a violation of the right to life and ordered the construction of shelters.[7]

25. In Nigeria, affected communities have successfully argued that forced evictions constitute a violation of the constitutional right to dignity.[8] The High Court in Abuja has stated that the right to housing should not be construed narrowly to mean having a roof over one's head but should be viewed broadly as a right to live somewhere in relative peace, security and dignity. It also indicated that governments have a responsibility to create housing policies to enhance those values.[9]

26. The Constitution of Uruguay guarantees the right to a decent home, which is given effect in a five-year housing plan for the period 2015–2019.[10] The plan draws on the right to the city and the comprehensive definition of adequate housing as contained in general comment No. 4 which addresses, for example, issues of discrimination and socio-spatial segregation.

27. The Housing (Scotland) Act 1987 embraces the immediate obligation to address homelessness by requiring local governments to provide housing to anyone who is unintentionally homeless, including those facing domestic violence and overcrowded accommodation.[11]

28. In each of these country contexts, civil society has identified violations of the right to housing and continues to advocate for its more effective implementation. This suggests

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[6] For more on respect, protect and fulfil see: International Commission of Jurists, *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights* (Maastricht, 26 January 1997). Available from www.refworld.org/docid/48abd5730.html.

[7] See *People's Union for Civil Liberties v. Union of India & Others*, Supreme Court of India, Civil Petition No. 196 (2001).

[8] See *Akakpo Agemo & Ors. v. Attorney General of Lagos State & Others*, High Court of Lagos State (26 January 2017). Available from https://static1.squarespace.com/static/535d0435e4b0586b1fc64b54/t/58947fc686e6c0558d87e37e/1486127074123/170126+Ruling+-+Akakpo+Agemo+%26+Ors+v+LASG+%26+Ors.pdf.

[9] See *Chief Jacob Obor & Others v. Federal Capital Development Authority & Others*, High Court in Abuja (2 February 2017). www.fcthighcourt.gov.ng/download/main%20judgement/2017_judgements/1st_quarter/court_23_hon_justice_a._i._kutigi/CHIEF-JACOB-OBOR-13-ORS-V.-F.C.D.A-3-ORS-TITLE-TO-LAND-DEMOLITION.pdf.

[10] Available from www.anv.gub.uy/archivos/2016/02/PLAN_QUINQUENAL_DE_VIVIENDA_2015_2019.pdf.

[11] See Fiona King, "Scotland: Delivering a Right to Housing", in *Journal of Law and Social Policy*, vol. 24 (2015), p. 158.

that constitutional and legislative protections of the right to housing may not always be sufficient.[12]

B. Principle 2: prioritize those most in need and ensure equality

29. The right to equality and non-discrimination must be protected in all aspects of housing strategies. Guaranteeing these rights and ensuring effective remedies are immediate obligations.

30. Strategies must assess which communities and populations are in most desperate need or living in the most hazardous conditions and address their circumstances in a human rights compliant manner.[13]

31. The needs of communities in areas prone to disaster and flooding, such as along river banks and waterfronts, must be prioritized. States must ensure that disaster prevention development plans, such as the building of embankments or flood channels, do not unnecessarily uproot communities and households. "Peoples plans" for relocation and strategies for protection against disasters should be given priority.

32. Strategies must ensure that communities have the resources and technical capacity to build housing that can withstand extreme weather events, earthquakes and other disasters, drawing on local and indigenous expertise and capacities where possible.

33. Strategies must prevent housing systems themselves from sustaining and increasing socioeconomic inequality and exclusion. They must recognize and address the close association between laws and government policies that position housing as a commodity, and the unaffordability of housing for those in the lowest income brackets, leading to growing homelessness and displacement and increased concentration of wealth.

34. For housing strategies to be effective, they must address not only housing need, but also the structural causes underlying the need. "Housing first" programmes, for example, may reduce homelessness among persons with disabilities, but they need to be supplemented by adequate social protection programmes, barrier-free design, access to affordable housing options and measures to ensure that persons with disabilities are reasonably accommodated by housing providers.

35. The right to equality must be understood substantively. This means much more than ensuring equal access to existing housing. It requires positive measures to undo the effects of discrimination and exclusion. States should refer to the Committee on Economic, Social and Cultural Rights general comments No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights and No. 20 (2009) on non-discrimination in economic, social and cultural rights, to ensure that strategies are consistent with substantive equality and its application.

36. Housing strategies should identify groups that suffer housing disadvantages and should address the particular barriers they face. These groups include: women; persons with disabilities; people living in poverty; migrants; racial and ethnic minorities; indigenous peoples; youth; older persons; lesbian, gay, bisexual, transgender and intersex persons; and people who are homeless or living in informal settlements. They should ensure that legal protections from discrimination are effectively enforced in the housing sector and that housing status — including homelessness — and social and economic situation are recognized as prohibited grounds of discrimination.[14]

37. Women's equal right to housing must be ensured in all aspects of housing strategies. This includes addressing women's distinct housing experiences, including discrimination with respect to land, property and inheritance, violence against women and the

[12] See for example www.justempower.org, and https://scotland.shelter.org.uk/get_involved/campaigning/homelessness_far_from_fixed.

[13] E/C.12/2007/1, paras. 4, 8 (f) and 13(b).

[14] See general comment No. 20.

disproportionate impact on women of forced evictions, inadequate water and sanitation and pervasive poverty.

38. Strategies should address the legacy of colonization and the systemic housing inequality and dispossession experienced by indigenous peoples. This requires specific measures led by indigenous peoples based on their right to develop their own housing priorities and strategies.[15]

39. Strategies should additionally recognize and be responsive to the unique housing experiences that result from intersectional and compound discrimination. For example, women with disabilities are more susceptible to violence in the home and less likely to have access to shelters or alternative accommodation, and women with physical disabilities may suffer particular hardship when water and sanitation facilities are not nearby.

40. Strategies should be responsive to emerging issues of marginalization, discrimination or xenophobia and address stigmatization and hatred. The increasing number of people on the move raises a particular challenge in this respect. Housing strategies must ensure the right to housing of migrants, regardless of documentation. The draft guidelines on migration produced by the Office of the United Nations High Commissioner for Human Rights (OHCHR) provide guidance on these obligations.[16]

In practice

41. In many cases, although strategies claim to prioritize those most in need, they impose requirements that serve to disqualify them. For example, requirements such as cash down payments, personal identification, documentary proof of title or zoning approval, or historical occupancy, all act as barriers to many people in need of adequate housing.

42. In Afghanistan, a microfinance project provides small home improvement loans to low-income residents for renovations and upgrading. Originally the programme required residents to show documentary proof of title to their lands. However, in order to eliminate this barrier, alternative forms of proof are now accepted, such as the testimony of neighbours.[17]

43. In Uganda, the 2016 housing policy[18] recalls the country's colonial past and the historical housing policy that only addressed the needs of Europeans while segregating Africans to the peripheries of urban areas. The current policy aims to ensure access to adequate housing for vulnerable groups, challenges stigmatization and discrimination, particularly of the 2 million persons living with HIV/AIDS, and addresses gender as a cross-cutting issue requiring measures to ensure women are involved in the design, formulation and implementation of housing projects and programmes.

44. In the city of Medellin, Colombia, a new transportation system targeted areas with the lowest quality of life. The system connects informal settlements to the city by cable car.[19]

45. As a measure to give effect to constitutional human rights provisions including dignity of the person, Portugal has adopted a multi-pronged action plan to eliminate homelessness by 2023 based on principles of non-discrimination and equality. The Strategy will include an interministerial commission that oversees the implementation of the strategy.

46. Organizations in Europe have recently partnered to develop a "homeless bill of rights" to raise awareness of the discrimination and inequality experienced by homeless

[15] See the United Nations Declaration on the Rights of Indigenous Peoples.

[16] Available from www.ohchr.org/EN/Issues/Migration/Pages/VulnerableSituations.aspx.

[17] Information on file with the Special Rapporteur from the European Microfinance Award 2017.

[18] Available from http://mlhud.go.ug/wp-content/uploads/2015/10/National-Housing-Policy-May-2016.pdf.

[19] See https://opendocs.ids.ac.uk/opendocs/ds2/stream/?#/documents/47914/page/1.

persons and to urge cities to recognize their rights to use public spaces, have access to basic sanitary facilities and carry out practices necessary for survival.[20]

47. In England, under the Homelessness Reduction Act 2017, local governments are required to carry out a homelessness review, adopt a homelessness strategy and provide housing to those deemed to be a priority. Also, under the Equality Act 2010, social housing providers and all local governmental authorities in England are required to comply with the "equality duty" to adopt measurable equality objectives.

C. Principle 3: comprehensive and whole-of-government

48. Rights-based housing strategies must ensure that all dimensions of the right to adequate housing are addressed in diverse contexts. The Committee on Economic, Social and Cultural Rights has defined the right to adequate housing as the right to live in security, peace and dignity. Within that broad definition, the Committee has identified seven key features of adequate housing in its general comment No. 4: legal security of tenure; affordability; habitability; availability of services; accessibility; location; and cultural adequacy. Other dimensions of "adequacy" have been articulated to ensure coverage, for example, of the housing experiences of persons with disabilities and women.[21]

49. Each component of adequacy gives rise to particular obligations. For example, affordability requires measures such as rent regulation, housing subsidies, access to credit, and measures to prevent speculation; access to services requires the provision of water and sanitation, childcare and health services; and security of tenure requires a host of measures, such as strengthening diverse tenure forms — for example, formal/informal, individual/collective, customary, rental/ownership — prioritizing in situ solutions and combating discrimination on the basis of tenure, which are explained in the guidelines on security of tenure for the urban poor.[22]

50. Strategies should address all issues that have a significant impact on the right to housing, including land-grabbing, speculation, privatization, predatory lending, environmental degradation and vulnerability to floods, fires or earthquakes.

51. Housing strategies must engage multiple programmes, policies and spheres of government. They must ensure coordination among a host of areas from income support and land use to social housing programmes to finance.

52. Housing strategies must also engage multiple levels of government, from the local to the national, drawing on the strengths of each. The responsibilities of each level of government need to be delineated and clearly linked to human rights obligations.

53. A number of approaches can be taken to coordinate the multiple spheres and levels of government that must be engaged in rights-based housing strategies. A lead ministry or department may be assigned to coordinate. Intergovernmental agreements should recognize shared obligations and clarify responsibilities. Where there is uncertainty regarding who has jurisdiction or responsibility, action should be taken first to protect the right at stake, after which time disputes may be considered and resolved.

54. Strategies must address the needs of diverse populations wherever they live — in urban, rural or peri-urban areas — regardless of their tenure status and including those who have been displaced or who have lost housing because of conflict or disaster.

55. Strategies must engage diverse actors whose actions may affect the right to adequate housing, including not only governments but also private actors, international financial and investment agencies, and bilateral and multilateral donors.

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[20] See Fondation Abbé Pierre, Housing Rights Watch, FEANTSA, "Template for a homeless bill of rights". Available from www.housingrightswatch.org/sites/default/files/Template%20Homeless%20Bill%20of%20Rights%20EN.pdf.

[21] See A/72/128, paras. 8–32, and A/HRC/19/53, paras. 12–13.

[22] See A/HRC/25/54, A/HRC/4/18 and A/72/128.

In practice

56. Many national housing strategies have adopted a rights-based framework in some respects but have lacked comprehensiveness and, on that account, have been less effective.

57. In France, for example, the national law enacted in 2007 on the enforceable right to housing ("*Droit au Logement Opposable*" or "DALO") entitles any French citizen or an individual with a right of residence/residence permit who lacks adequate housing to appeal for priority housing.[23] Some 100,000 households have been granted housing in the 10 years since the law came into force.[24] Although the "DALO" law affirms the right to housing, it has failed to address key systemic issues and causes of homelessness, such as inadequate housing supply in cities and exclusion of migrants, and has failed to ensure that the most vulnerable benefit from the "DALO" law. France has indicated it will be introducing a new housing strategy aimed at increasing housing supply, focusing on the most vulnerable and improving living conditions.[25]

58. In Argentina a multi-stakeholder initiative ("*Habitar Argentina*"), has been developed, including a comprehensive "National Consensus for Decent Habitat", with 10 components that include: land policies, redistribution of real estate revenues, universal access to mortgages, participation, due process and access to justice, prevention of forced evictions, rental market regulation and access to social infrastructure.[26]

59. In Ireland, a cross-Government plan entitled "Rebuilding Ireland" has been developed to engage local governments and voluntary sectors. A cabinet committee on housing, chaired by the Prime Minister, has been charged with overseeing the implementation of the plan.[27]

60. Rwanda has the world's fastest urbanization rate and large discrepancies between income levels and the cost of living, with 90 per cent of the population unable to afford a formal housing unit. To address those conditions, the National Housing Policy (2015) and Informal Urban Settlement Upgrading Strategy (2017) recognize housing as a basic human right, assign clear areas of responsibility to a range of authorities and levels of government with "cross-sectoral and cross-hierarchy coordination" and consider different frameworks for the "integration of civil concerns".[28]

D. Principle 4: rights-based participation

61. Rights-based housing strategies must firmly commit to ensuring meaningful participation of affected persons at every stage, from design to implementation to monitoring. Participation is central to human rights-based housing strategies because it challenges exclusion and silencing. Strategies must recognize that violations of the right to housing and other human rights emanate from failures of democratic accountability to people.

62. Rights-based participation should be distinguished from consultation. In consultations, governments may solicit input, but decision-making continues to rest with

[23] See Julie Clauzier, "The DALO law: a step towards making the right to housing a reality", 6 July 2017. Available from www.housingrightswatch.org/content/dalo-law-step-towards-making-right-housing-reality.

[24] See Jean Michel David, "The DALO law is 10 years old", 26 June 2017. Available from www.housingrightswatch.org/content/dalo-law-10-years-old.

[25] See Government of France, "The Government's Housing Strategy". Available from www.gouvernement.fr/en/the-government-s-housing-strategy.

[26] Available in Spanish only from www.consensohabitar.org.ar/ and www.cels.org.ar/web/publicaciones/consenso-nacional-para-un-habitat-digno-diez-propuestas-de-politicas-publicas.

[27] Rebuilding Ireland, Action Plan for Housing and Homelessness, July 2016. Available from http://rebuildingireland.ie/Rebuilding%20Ireland_Action%20Plan.pdf.

[28] See Centre for Affordable Housing Finance in Africa, *2017 Yearbook* (Johannesburg, 2017), p. 213. Available from http://housingfinanceafrica.org/app/uploads/2017_CAHF_YEARBOOK_14.10-copy.compressed.pdf.

Governments, and often disregards contributions received from relevant constituencies. Rights-based participation emerges from community action and is led by rights holders who identify what is lacking and what needs to change. Governments must respond accordingly.

63. Housing strategies should include specific participatory mechanisms to oversee their implementation, such as housing councils, commissions, committees or panels. It is critical that those who are homeless, living in informal settlements or in grossly inadequate housing be supported to participate in those mechanisms. To ensure effective participation, technical support and expertise must be made available drawing on local capacities where possible. Methods of communication and interaction should be accessible and respect community practices.

64. Participation of indigenous peoples in housing strategies and planning must be implemented in a manner that is consistent with the Declaration on the Rights of Indigenous Persons and the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169), including the requirement of free, prior and informed consent, as well as in a manner consistent with other national foundational or constitutional agreements between indigenous peoples and their Governments.

65. Special attention must be paid to ensuring the participation of vulnerable groups who might not otherwise be able to participate owing to discrimination or marginalization, such as: women; people who are homeless; lesbian, gay, bisexual, transgender and intersex persons; representatives from informal settlements; racial, ethnic and cultural minorities; migrants; older persons; and young persons. Special measures to ensure effective participation of persons with disabilities should comply with the standard of full and effective participation and inclusion, articulated in article 3 of the Convention on the Rights of Persons with Disabilities.

66. Those affected by displacement must be empowered to make decisions regarding alternative land and housing.[29] At the local level, participation rights should translate into community control of housing development and of upgrading of informal settlements by residents themselves.

67. Local governments have a critical bridging role to play in supporting participation because they are often best situated to engage directly with local communities and bring their concerns into local governance, intergovernmental negotiations and national level strategies.[30]

In practice

68. In establishing a framework for dialogue between local governments and communities affected by eviction and displacement, the South African Constitutional Court has developed the concept of "meaningful engagement", where the parties make decisions together based on compliance with the right to housing.[31]

69. In Angola, the Luanda Urban Poverty Programme encourages the participation of civil society in developing and supporting "resident area development organizations" to engage with local governments on planning and infrastructure.[32]

70. Thailand has implemented a unique model of rights-based participation in housing upgrading programmes. It provides financial and technical support for communities to

[29] See A/HRC/4/18.

[30] See A/HRC/28/62.

[31] See L. Chenwi and K. Tissington, "Engaging meaningfully with government on socioeconomic rights: A focus on the right to housing" (University of the Western Cape, 2010), p. 10. Available from https://docs.escr-net.org/usr_doc/Chenwi_and_Tissington_-_Engaging_meaningfully_with_government_on_socio-economic_rights.pdf.

[32] See http://mirror.unhabitat.org/content.asp?cid=10266&catid=34&typeid=73&SubMenuID=69.

negotiate for land, develop city-wide plans, provide infrastructure and manage all aspects of upgrading projects.[33]

71. Indigenous peoples' right to culturally appropriate housing has frequently been violated because they have been denied participation and control over the design and production of their own housing. In Chile, for example, even something as simple as ensuring that doors face the sunrise, essential for any Mapuche home, has been neglected in housing built for those communities. New social housing architecture in Chile has incorporated design inspired by the Mapuche "*ruka*" dwellings, made from tree trunks and branches.[34]

72. Participation in housing strategies may also lead to more effective engagement in democratic politics. In the run-up to the 2017 gubernatorial elections in Jakarta, civil society negotiated a "political contract" with one of the candidates that included a demand for a human rights-based housing strategy inclusive of urban plans to regularize "kampungs" (informal settlements) and an affordable housing programme. Many voters turned out from the kampungs to support the candidate and the contract is being implemented.

E. Principle 5: accountable budgeting and tax justice

73. Strategies will not be successful if governments fail to allocate reasonable budgets and resources for their implementation. Housing strategies must include both short- and long-term commitments of adequate resources.

74. Budgeting for housing strategies should comply with the standard of "maximum of available resources" and "all appropriate means", as in article 2 (1) of the Covenant. Accountability to this standard includes an obligation to make reasonable expenditures to address housing need and an obligation to secure available resources through reasonable taxation and other measures.

75. Gender-responsive budgeting processes should be put in place whereby national and local budgets are analysed in terms of their differing impacts on the housing experiences of women and fiscal decisions are taken that promote women's housing equality.

76. Participatory budgeting processes can play an important role in ensuring a focus on human rights standards, ensuring that adequate resources are allocated to meet stated goals and timelines and due consideration is given to the needs of marginalized groups.

77. Strategies must ensure that sufficient funds, taxation provisions or other means of securing resources are made available to local and subnational governments where they are allocated housing responsibilities.

78. Strategies must commit to addressing tax avoidance and loopholes in the housing and real estate sectors. Tax avoidance in housing systems constitutes a massive loss of revenue that should be made available for realizing the right to housing.

79. Housing strategies should commit to carrying out the necessary taxation reforms to ensure that taxation promotes rather than undermines the fulfilment of the right to housing. For example, speculators and investors in luxury housing should be subjected to higher taxes and profits made by private owners resulting from rezoning or from public investment in infrastructure should be recovered and directed towards public purposes. Other tax

[33] See N. Castanas et al., "Leave no one behind" (working paper, December 2016). Available from http://www.achr.net/upload/downloads/file_12012017132717.pdf.

[34] See article by M. Ayenao Lagos, available in Spanish only from http://revistaplanco.uc.cl/wp-content/uploads/Articulo_Margarita_Ayenao.pdf. See also article dated 10 December 2013 on ruka dwellings, available from https://www.archdaily.com/456299/ruca-dwellings-undurraga-deves-arquitectos.

strategies are identified in the Special Rapporteur's report on the "financialization of housing".[55]

80. Additional tax revenues derived from the elimination of tax loopholes and from more progressive taxes on the wealthy should be retrieved for the production of affordable housing, subsidies for low-income households, the creation of land banks and other resources to support housing strategies.

81. In many States, homeowners are given preferential tax treatment in comparison to renters, contributing to growing socioeconomic disparities. Strategies should review and address such disparities.

82. Tax systems should adopt measures to ameliorate systemic patterns of discrimination, such as by providing tax incentives to women to register as owners of land or housing in societies where title is usually accorded to men.

83. Housing strategies should be integrated with measures to combat corruption and ensure rigorous oversight of public-private partnerships and contracts for housing production and management.

84. The establishment or expansion of large multinational corporations, particularly technology industries, in cities or neighbourhoods can put excessive pressure and demands on existing housing markets. Mechanisms should be explored to ensure that these businesses contribute resources to assist in meeting heightened housing demand.

In practice

85. In Kenya, where participation in public financial management is included in the Constitution, participatory budgeting is being tested to implement the provision. The initial results indicate greater participation, particularly by women, and budget allocations have shifted to a focus on upgrading facilities rather than flagship projects.[56]

86. Singapore has been more successful than other States in controlling financialization. It imposes an 18 per cent property sales tax and an additional buyer stamp duty on wealthy property owners and investors, with revenues used to subsidize homeownership of low-income individuals.[57]

87. In Vancouver, Canada, a housing strategy has been introduced that includes a tax on vacant housing, differential property tax on luxury residential housing, a "flipping" tax, a speculation tax, restrictions on property ownership by non-permanent residents and measures to recoup increased real estate values resulting from rezoning.[58]

88. In Taiwan Province of China, residential property owners are taxed 15 per cent on the sale price of their property if they sell it within one year of purchase and 10 per cent if sold within two years. In New Zealand, the Government's "bright-line test" requires people selling a rental house bought less than two years before it is sold, to pay income tax on any sale profit.[59]

F. Principle 6: human rights-based goals and timelines

89. Rigorous human rights-based goals and timelines are required to ensure that housing strategies move as expeditiously as possible toward the goal of adequate housing for all and

[55] A/HRC/34/51.

[56] See http://blogs.worldbank.org/governance/citizen-engagement-kenya-law-practice.

[57] See Sock-Yong Phang and Matthias Helbie, "Housing policies in Singapore", Asian Development Bank Institute Working Paper No. 559 (Tokyo, 2016). Available from www.adb.org/sites/default/files/publication/181599/adbi-wp559.pdf.

[58] See http://council.vancouver.ca/20171128/documents/rr1appendixa.pdf.1.

[59] See http://www.ird.govt.nz/technical-tax/legislation/2015/2015-111/leg-2015-111-ta-bright-line.html.

realize the right for every individual in the shortest possible time in accordance with the maximum of available resources.[40]

90. Goals and timelines should be reasonable. They should not be so ambitious as to be unachievable, but they must reflect the urgency of addressing violations of human rights. States must adapt goals and timelines in housing strategies to ensure that they will achieve the outcomes to which they have committed in the 2030 Agenda and the New Urban Agenda.

91. Goals and timeliness within housing strategies must be understood as human rights obligations. Failures to meet such goals and timelines have severe consequences for those who are living in unacceptable housing conditions and, unless justified by unforeseen events or circumstances, constitute violations of human rights for which States should be held accountable.

92. Goals and timelines may be developed on the basis of three types of human rights indicators, as identified by the Office of the United Nations High Commissioner for Human Rights:[41]

(a) "Process indicators" provide information on what has been delivered within a period of time. This could include the number of housing units funded and built, the number of in situ upgrades completed or the value of shelter subsidies allocated;

(b) "Outcome indicators" assess results in terms of the experience of rights holders. They rely on both quantitative data, such as the number of households with water and sanitation, and qualitative information, capturing lived experience and including direct testimony, photography, videos and social media sources;

(c) "Structural indicators" measure the extent to which the components of the right to housing, such as affordability or security of tenure, are subject to legal protections and effective remedies. Structural indicators should include assessments of the impact of legal protections on the ground and the extent to which access to justice and effective remedies is actually available for marginalized groups.

93. Strategies must ensure that adequate data on programme beneficiaries (process), housing conditions (outcome) and access to justice (structural) is collected and disaggregated by race, ethnicity, disability, age, gender and other relevant characteristics.[42]

94. Independent goals and timelines should be established for particular groups, regions and locations. For example, housing strategies should measure the provision of housing for street children and young people and of community-based housing for persons with disabilities.

95. Goals should address systemic issues such as stigmatization, racial divides, unequal provision of services and transportation, land acquisition and loss of agriculture.

96. It is critical that definitions used for the purposes of setting goals and assessing progress be informed by lived experience. For example, "affordability" must be defined in a manner that accounts for income levels of those living in extreme poverty, of persons with disabilities who may have additional living expenses or of older persons with medical expenses.

97. Housing strategies should not become so driven by statistics alone as to lose touch with the basic human rights values on which goals are based. Striving to meet numerical targets should not discourage authorities from addressing more complex needs or from responding to emerging issues as they arise. Meeting goals and timelines should always be informed by the broader purposes of human rights-based housing strategies.

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[40] See general comment No. 3, para. 9, and general comment No. 4, para. 14.

[41] See OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation* (New York and Geneva, 2012), pp. 34–42. Available from http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf.

[42] See general comment No. 20.

In practice

98. Though many States and local governments have committed to ending homelessness, successes are few and far between. The city of Medicine Hat, in Alberta, Canada, proclaimed in 2015 that it had ended homelessness, by which it meant that no one there lived in a homeless shelter for more than 10 days before being allocated permanent housing. In Spokane, United States, a plan was adopted to end chronic homelessness by 2017 and family homelessness by 2018. The plan is based on the belief that access to housing is a basic human right. However, the goal has not been achieved.

99. In Finland, the first phase of the 2008–2015 strategy to eliminate homelessness included a goal to build 1,250 new dwellings and supported housing units in 10 cities. That goal was exceeded by almost 300 units, but the strategy fell short of its preliminary objective of reducing homelessness by 50 per cent (reducing it instead by 28 per cent). During that period, Finland was the only country in Europe to reduce homelessness. The second phase of the strategy was adjusted to address structural causes of homelessness and broaden its reach while providing housing for those in immediate need. It includes services for homelessness prevention, addresses hidden homelessness and includes housing targeted at young people and asylum seekers.[43]

100. In 2008, Cabo Verde introduced a national housing programme entitled "homes for all" designed to deliver 8,400 housing units to reduce the housing deficit by 20 per cent by 2013. The target was reduced to 6,010 units in 2011 after the International Monetary Fund pressured the Government to reduce expenditure on the programme. Financial institutions were also unwilling to provide mortgages to low-income beneficiaries largely working in the informal sector, who were intended to be the primary beneficiaries of the programme.[44]

G. Principle 7: accountability and monitoring

101. Effective monitoring of the implementation and outcomes of housing strategies is a firm obligation of States.[45]

102. A designated monitoring body should be mandated to assess the ongoing effectiveness of the housing strategy, identify failures or shortcomings, recommend necessary changes and hold Governments and other actors accountable. Whether it is a commission, a housing ombudsperson, a housing advocate or a national or regional human rights institution, the designated body must be independent of Government, provided with adequate financial resources and free to express opinions and make recommendations on policy and legislation.[46]

103. Monitoring bodies may also be mandated to provide independent information on compliance with the right to housing to international or regional human rights bodies or to participate in hearings before domestic courts or human rights tribunals in relevant cases. They may also be responsible for monitoring the implementation of recommendations or remedial orders emanating from those bodies.

104. Monitoring bodies should also have the authority and resources to visit affected communities, conduct hearings into systemic issues or into reported problems and benefit from the knowledge of those who are experts by experience.

105. Monitoring should include the use of human rights indicators, review progress in relation to agreed goals and timelines and consider all relevant data. Data should be

[43] See N. Pleace, "The Action Plan for Preventing Homelessness in Finland 2016–2019: The Culmination of an Integrated Strategy to End Homelessness?", in *European Journal of Homelessness*, vol. 11, No. 2 (December 2017).

[44] See A/HRC/31/54/Add.1. See also www.expressodasilhas.sapo.cv/economia/item/49517-fmi-aconselhou-fim-do-casa-para-todos-ha-quatro-anos (available in Portuguese only).

[45] See general comment No. 20, para. 11.

[46] See Committee on Economic, Social and Cultural Rights general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights, para. 3.

disaggregated based on group characteristics and be fully inclusive of people on the move as well as those who are homeless or living in informal settlements.

106. Reviews of housing strategies conducted by affected communities, civil society organizations, the media and human rights organizations should also be considered in assessing progress and addressing concerns.

In practice

107. In Spain, the Ombudsman has the authority to make recommendations to public authorities and the legislator and may generate or propose modifications to legislation. The ombudsman analysed the causes of the mortgage crisis in Spain and its consequences for vulnerable groups and made extensive recommendations.[47]

108. In Canada, the National Housing Strategy includes a provision for a federal housing advocate responsible for hearing the experiences of vulnerable groups regarding systemic barriers to adequate housing.[48]

109. In Peru, the Ombudsman intervenes in situations that affect or restrict people's access to housing. For example, it recommended that the metropolitan municipality of Lima adopt a relocation plan for the urban indigenous Shipibo-Conibo people of the Cantagallo community who were living in a dump. As a response, the Ministry of Housing, Construction and Sanitation announced the construction of housing units for the families, with an investment of 23 million soles.[49]

H. Principle 8: ensuring access to justice

110. Rights-based strategies must include effective claiming mechanisms that guarantee access to remedies where a violation is found. Such mechanisms can play a vital role in ensuring that housing systems operate inclusively and effectively. They allow marginalized groups to identify unmet housing needs, draw attention to circumstances that have been neglected or ignored and identify laws, policies or programmes that deny access to adequate housing. They provide rights holders with the opportunity to identify appropriate remedies or solutions to their housing problems.

111. Rights-based housing strategies may rely on a variety of means to ensure access to justice.[50] Courts may be relied upon to hear constitutional claims related to violations of the right to housing or enforce legislation governing housing strategies. Necessary legal assistance and other support must be available to guarantee access to courts and to ensure fair hearings.

112. While ultimate recourse to courts is important, other more accessible claiming mechanisms should also be included in housing strategies. Ombudsman offices, housing commissioners, human rights institutions, community housing councils or housing advocates may be given authority to consider complaints and to require responses by Governments and other relevant actors.

113. It is particularly important that claiming mechanisms be able hear systemic claims and hold all relevant actors accountable. They should be given broad jurisdiction to hear from civil society, engage multiple levels of government and to hold private actors accountable.

114. In the context of housing strategies, access to justice must be broadly conceived. States are held accountable for specific actions, such as forced evictions. They must also, however, be held accountable for violations resulting from failures to progressively realize

[47] See www.defensordelpueblo.es/en/wp-content/uploads/sites/2/2015/06/Ndp_hipotecas_en.pdf.

[48] See "Canada's National Housing Strategy" (Ottawa, 2017). Available from www.placetocallhome.ca/pdfs/Canada-National-Housing-Strategy.pdf.

[49] Submission of the Peru Ombudsman for the present report, p. 6.

[50] See Committee on Economic, Social and Cultural Rights general comment No. 9 (1998) on the domestic application of the Covenant, para. 9.

the right to housing, such as failures to provide basic services to informal settlements within a strategy's designated time frame.

In practice

115. In France, the "DALO" law establishes amicable settlement procedures and litigation options in the case of a violation. In one case, the Government was fined 12.9 million euros for failing to provide housing in compliance with the law.[51]

116. A number of cities have ombudsperson offices that provide complaints procedures for violations of the right to housing. To complement its designation as a human rights city, Seoul created a local committee on human rights and an ombudsperson office to which local residents can take their complaints.[52]

117. The South African Human Rights Commission has developed a complaints procedure and has a mandate to conduct hearings. After receiving numerous complaints related to the right to housing, the Commission held an investigative hearing into access to housing, local governance and service delivery. The Commission named 10 governments and public bodies as respondents. At its completion, the Commission determined that dominant approaches to housing programming in South Africa were failing to progressively realize the right to adequate housing. The Commission made wide-ranging recommendations to all levels of government and called for "a shift in mind-set of how State departments approach their housing obligations" in order to realize the right to housing as a central component of the right to a dignified life.[53]

I. Principle 9: clarify the obligations of private actors and regulate financial, housing and real estate markets

118. In most countries, the private sector plays a predominant role in the production and provision of housing and related services. Housing strategies are therefore likely to be ineffective if they ignore the significant role of private actors. Relevant private actors range from small-scale landlords to real estate developers and construction companies to multinational corporate landlords, and AirBnB and other short-term rental providers. They also include banks and other financial institutions, international hedge funds and multibillion dollar private equity firms.

119. Despite the fact that housing investment is the largest business sector globally, scant attention has been paid to business and human rights in housing. Housing strategies should include human rights education campaigns directed at investors and landlords or require compulsory training of prospective landlords on their human rights obligations.

120. Housing strategies should meet all of the standards outlined in the Guiding Principles on Business and Human Rights. Access to effective remedies and grievance procedures as outlined in the Guiding Principles should provide a means for affected communities to raise concerns about the effects of activities linked to gentrification, land acquisition and speculation.

121. The Guiding Principles, however, do not provide a comprehensive architecture for the regulation of businesses necessary for the realization of the right to housing. They are largely limited to ensuring the obligations to respect and protect — while housing strategies are centrally focused on States' obligation to fulfil — the right to housing. Given the

[51] See C. Levy-Vroelant, "The Right to housing in France: Still a long way to go from intention to implementation", in *Osgoode Hall Journal of Law and Social Policy*, vol. 24 No. 5, p. 102. Available from http://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1210&context=jlsp.

[52] See OHCHR, "Implementing the Right to Adequate Housing: A Guide for Local Governments and Civil Society" (Geneva), p. 8. Available from www.uclg-cisdp.org/sites/default/files/GuideSubnationalReport_EN.pdf.

[53] See South African Human Rights Commission "Investigative Hearing Report: Access to Housing, Local Governance and Service Delivery", (23–25 February 2015), pp. 19 and 100. Available from www.sahrc.org.za/home/21/files/Access%20to%20Housing%202015.pdf.

reliance on private actors in most housing systems, governments cannot simply ensure that private actors do no harm by, for example, preventing illegal evictions or demolitions. They must also ensure that the actions of private actors and investors are consistent with the State's obligation to fulfil the right to housing. In that regard, housing strategies may, for example, require investors to produce affordable rather than luxury housing; include a percentage of accessible units for persons with disabilities; or ensure that in situ upgrading is done in accordance with choices made by residents.

122. The challenges posed by the financialization of housing require a significant shift in the way in which States regulate private actors and direct the activities of financial markets. Strategies must affirm the social function of land and housing and adopt measures to curb speculation, stop the production of unneeded luxury housing and prevent the privatization of public land.

123. Strategies should promote and recognize alternative forms of housing investment to combat privatization of land and housing. Community land trusts, collective ownership models and social housing should be prioritized over reliance on private sector investment.

124. Strategies should create mechanisms for rigorous oversight of public private partnerships and other relationships between public authorities and private developers. They must ensure that displacement or land acquisition for "public purpose" is not abused for private gain. Zoning amendments and land use decisions should be subject to independent oversight to ensure transparency, accountability to communities and absence of corruption.

125. Housing strategies should protect and support the informal economic activity on which people rely for livelihoods, including caregivers, domestic workers, street vendors and those who produce or sell goods from their homes.

126. In rural areas, housing strategies should ensure that the right to housing, including the right to water, food security, land and livelihood, are protected from extractive industries and corporate agro-business, prevent land-grabbing and protect the rights of indigenous peoples in accordance with the United Nations Declaration of the Rights of Indigenous Persons.

In practice

127. In Argentina, the Fair Access to Habitat Law requires large property developments, such as country clubs and gated communities, to relinquish 10 per cent of the land or of the cost of property to be used for social housing. The law also prohibits evictions from informal settlements and allows for an increase in taxes on property when its value increases because of neighbourhood development. The funds collected are applied to upgrade informal settlements and improve precarious housing conditions.

128. In India, parliament passed in 2016 the Real Estate (Regulation and Development) Act to remove unnecessary delays and promote transparency in real estate developments. The law requires the registration of development projects, identifying all individuals and corporations involved. The act is expected to expedite affordable housing projects and improve the accountability of the real estate sector. It does not, however, regulate property speculation or mandate the provision of affordable housing for low-income households as urged by the organization Housing and Land Rights Network.[54]

129. Many local governments require developers to ensure that at least a minimum proportion of new housing units are affordable. In Montreal, Canada, 15 per cent of units are required to be affordable, whereas in London, that figure is 25 per cent, and in the *Plaine Commune* in Paris it is 40 per cent.[55]

[54] See Housing and Land Rights Network, *Housing and Land Rights in India: Submission to Habitat III* (New Delhi, 2016). Available from http://hlrn.org.in/documents/Housing_and_Land_Rights_in_India_Report_for_Habitat_III.pdf.

[55] Submission by United Cities and Local Governments for the present report.

130. In Lima, regeneration efforts have been led in the Rimac area through partnerships between community residents' associations and private developers.[56] The community associations identify private developers to buy historic houses. The buildings are then reconstructed in order to provide subsidized units to current residents and market-rate units to new buyers.[57]

J. Principle 10: implement international cooperation and assistance

131. Housing strategies are primarily focused on realizing the right to housing within States and ensuring that domestic policies and programmes are designed and implemented to ensure adequate housing for all, in line with commitments made in the New Urban Agenda and the 2030 Agenda. At the same time, however, States must recognize that many of the challenges addressed in housing strategies are global in nature and also require international action.

132. Article 2 (1) of the Covenant recognizes the international dimension of the obligation to progressively realize Covenant rights, stating that States must take steps, individually and through international assistance and cooperation, especially economic and technical. The Committee on Economic, Social and Cultural Rights has recognized that a State is not in compliance with its international human rights obligations with respect to housing where its development assistance has resulted in the violation of the right to housing in another country.[58] Housing strategies should embrace the international dimensions of the right to housing by strengthening commitments to international cooperation and assistance and facilitating shared action to address global challenges.

133. Rather than facilitating the realization of the right to housing, development assistance often impedes it. Funding continues to be provided for infrastructure projects that result in forced evictions, and to support the financialization of property and housing, which leads to speculation and unaffordability. Instead, innovative models of technical and financial assistance should be adopted to support community-driven in situ upgrading, drawing on models of collective title and cooperative ownership. States receiving development assistance should insist that it be provided in a manner that supports and facilitates the implementation of housing strategies.

134. International financial institutions have frequently imposed deregulation or austerity measures that undermine housing strategies as a condition for loans or projects. States required to borrow from international or regional lenders should negotiate terms and conditions that support their housing strategies and should not accept conditions on loans that would result in violations of the right to housing.[59] Expedited complaints procedures should be available to contest imposed conditionality that is contrary to human rights obligations.

135. Unprecedented capital flows and the financialization of housing in "global cities" turn housing assets into internationally traded commodities. Housing strategies should ensure transparency and accountability of investment firms and funds, real estate investors and other corporate actors. They should engage with international initiatives such as the United Nations Global Compact to promote investment and business practices consistent with sustainability and the right to housing. They should ensure that national financial institutions, securities and capital markets are regulated in a manner that promotes the right to housing and should push international bodies such as the International Organization of Securities Commissions to develop and promote standards to support the right to housing.

136. International tax havens and lack of transparency in real estate investments deprive governments of resources that would otherwise be available for the implementation of housing strategies. States should work collaboratively on measures such as a global

[56] Ibid., p. 30.
[57] Ibid., p. 31.
[58] See E/C.12/DEU/CO/5 para. 11.
[59] See E/C.12/2016/1, para. 4.

financial register[60] and those proposed by the Organization for Economic Cooperation and Development (OECD)[61] to effectively combat tax evasion and adopt joint strategies to pressure States providing tax havens to cease from doing so.

137. Multinational corporations in extractive industries, agro-business and real estate destroy and displace housing, livelihood and communities. States should adopt laws to hold transnational corporations that are domiciled or registered within their territory, as well as those that are active within their territory, accountable to the right to housing and other human rights.

138. Many trade and investment agreements allow investors to sue States for new regulatory measures, even if they are necessary to ensure the right to housing. Housing strategies should ensure that such agreements recognize the right to adequate housing and protect any measures adopted to fulfil human rights obligations from challenges by investors. New types of trade and investment agreements that protect and promote the right to housing and other human rights should be negotiated.

In practice

139. In 2013 in Nigeria, during a period in which Lagos State was receiving World Bank funding for infrastructure and upgrading, the Government forcibly evicted 9,000 people from the Badia East community. The eviction was contrary to World Bank safeguard policies with which the Government had agreed to comply. The Social and Economic Rights Action Center submitted a request to the World Bank Inspection Panel asking it to investigate the evictions. Instead, the Panel initiated a pilot approach to pursue negotiated solutions with the community. This resulted in a resettlement action plan that provided some compensation and a grievance mechanism. Members of the community involved in the original complaint were not satisfied with the agreement. However, the Panel declined to proceed with the investigation.[62]

140. The European Union has developed a list of 17 countries that act as tax havens and is considering the use of sanctions against those countries if the problem is not addressed.[63]

141. The Participatory Development Programme in Urban Areas between Germany and Egypt, ongoing since 2004, is one example of an innovative community-driven development assistance project. It focuses on the upgrading of informal areas in the Greater Cairo region by supporting the implementation of participatory methodologies for urban upgrading with local government and civil society organizations.[64]

142. United Cities and Local Governments, an umbrella organization of local governments across the world, adopted the Bogota Commitment and Action Agenda, which suggests innovative approaches to integrate local government into international development mechanisms and institutions in order to ensure the realization of the New Urban Agenda, the Paris Agreement and other international agreements.[65]

143. United Cities and Local Governments has also joined with the OHCHR and the Special Rapporteur to initiate "The Shift", a new multi-stakeholder, international movement that recognizes that the global challenges to the right to housing require a global human rights-based response.

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[60] See World Inequality Lab, "World Inequality Report 2018" (Berlin, 2017), pp. 15–16. Available from http://wir2018.wid.world/files/download/wir2018-summary-english.pdf.

[61] See OECD, *Base Erosion and Profit Shifting*, (Paris, 2013). Available from www.oecd.org/ctp/BEPSActionPlan.pdf.

[62] See World Bank, "Lagos Metropolitan Development and Governance Project" (Washington, D.C., 2015). Available from http://projects.worldbank.org/P071340/lagos-metropolitan-development-governance-project?lang=en.

[63] See Council of the European Union, "The EU list of non-cooperative jurisdictions for tax purposes" (Brussels, 5 December 2017). Available from www.consilium.europa.eu/media/31945/st15429en17.pdf.

[64] See http://egypt-urban.net/about/.

[65] See United Cities and Local Governments, "The Bogota Commitment and Action Agenda" (Bogota, October 2016). Available from www.bogota2016.uclg.org/sites/default/files/bogota_commitment.pdf.

V. Conclusions and recommendations

144. **In the revision or development of housing strategies necessary to meet the commitments contained in the New Urban Agenda and the 2030 Agenda, the Special Rapporteur recommends that the following human rights-based strategy "checklist" be used in conjunction with the specific measures identified above:**

(a) **Is there legislation to give the housing strategy legal effect? Does it recognize the primacy of the right to housing as a legal right subject to effective remedies? Does it map a process for its realization, identifying both immediate and progressive obligations consistent with maximum of available resources?**

(b) **Does the strategy prioritize those most in need, ensure substantive equality and respond to the particular circumstances of groups facing discrimination? Are the effects of colonization addressed in a manner consistent with the United Nations Declaration on the Rights of Indigenous Peoples?**

(c) **Is the strategy comprehensive, including all dimensions of the right to housing and addressing all relevant issues, policies, groups and regions? Does it engage all levels and spheres of government?**

(d) **Does the strategy ensure rights-based participation through specific mechanisms? Is meaningful participation guaranteed in the design, implementation and monitoring of the strategy, and is support provided for the participation of marginalized groups?**

(e) **Does the strategy ensure the allocation of maximum available resources? Does it include measures to address inequalities and injustices in the tax system, including tax avoidance, and does it ensure that taxation promotes the realization of the right to housing?**

(f) **Does the strategy include reasonable goals and timelines that are based on human rights indicators and subject to rigorous monitoring and enforcement?**

(g) **Does the strategy provide for an independent monitoring body with jurisdiction to address systemic issues directly with Governments and in a variety of forums?**

(h) **Does the strategy ensure effective claiming mechanisms for the right to housing through courts and other means, including where violations result from failures to progressively realize the right to housing?**

(i) **Does the strategy clarify the obligations of private actors and ensure regulation of financial, housing and real estate markets, consistent with all aspects of States' obligations, including the obligation to fulfil the right to housing?**

(j) **Does the strategy incorporate international cooperation and assistance and engage international financial institutions so as to address global challenges to the right to adequate housing?**